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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 JEROME TALLEY,) CASE NO. C08-0677-TSZ
09 Plaintiff,)
10 v.) REPORT AND RECOMMENDATION
11 T.C. BAILEY,)
12 Defendant.)
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14 Plaintiff Jerome Talley is currently confined in the King County Jail in Seattle, Washington.
15 Appearing *pro se*, he recently filed an application to proceed *in forma pauperis* (“IFP”) together
16 with a proposed civil rights complaint, pursuant to 42 U.S.C. § 1983. In the complaint, plaintiff
17 names as sole defendant Seattle Police Officer T.C. Bailey. Plaintiff alleges that on October 22,
18 2007, Officer Bailey stopped plaintiff, searched him, and confiscated fifty dollars from plaintiff
19 without affording him protections guaranteed by the Due Process Clause of the Constitution.
20 Plaintiff now seeks a hearing to determine whether he has the right to get the money back. After
21 screening plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, the Court recommends, for the
22 reasons set forth below, that plaintiff’s case be dismissed without prejudice.

01 Where, as here, a prisoner alleges the deprivation of a property interest, the prisoner
02 cannot state a constitutional claim if the State provides an adequate post-deprivation remedy. *See*
03 *Zinerman v. Burch*, 494 U.S. 113, 129 (1990) (“[T]he State, by making available a tort remedy
04 that could adequately redress the loss, had given the prisoner the process he was due.”). It
05 appears that Washington provides an adequate remedy for the loss of property through the
06 Washington Tort Claims Act. *See* RCWA § 4.92.090. Accordingly, the present § 1983 action
07 may not proceed, and the Court recommends that it be DISMISSED without prejudice.¹ In
08 addition, plaintiff’s IFP application may be DENIED as moot. A proposed Order accompanies
09 this Report and Recommendation.

10 DATED this 1st day of May, 2008.

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12 Mary Alice Theiler
13 United States Magistrate Judge
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21 ¹ Because it is clear that any attempt by plaintiff to amend his complaint to cure the above-
22 described deficiencies would be futile, the Court need not provide plaintiff with an opportunity
to amend prior to dismissal. *See Flowers v. First Hawaiian Bank*, 295 F.3d 966, 976 (9th Cir.
2002); *Lucas v. Department of Corrections*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam).